

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

NIKOLAY MAMCHITS,

Plaintiff,

v.

FORD MOTOR COMPANY, et al.,

Defendants.

No. 2:23-cv-00805 DAD AC

SCHEDULING ORDER

This court conducted a scheduling conference on November 8, 2023. All parties appeared through counsel. Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, the court issues this scheduling order.

I. SERVICE OF PROCESS

The named defendants have been served as required by Federal Rule of Civil Procedure 5. ECF No. 18 at 3. No further service is permitted without leave of court for good cause shown under Federal Rule of Civil Procedure 16(b).

II. JOINDER OF ADDITIONAL PARTIES / AMENDMENT OF PLEADINGS

The parties do not anticipate joinder of any additional parties. ECF No. 18 at 3. No further joinder of parties or amendments to pleadings is permitted without leave of court, good cause having been shown. See Fed. R. Civ. P. 16(b); Johnson v. Mammoth Recreations, Inc., 975

1 F.2d 27 604 (9th Cir. 1992). The parties are advised that the filing of motions and/or stipulations  
2 requesting leave to amend the pleadings does not imply good cause to modify the existing  
3 schedule. Fed. R. Civ. P. 16 (b)(4); see also Johnson, 975 F. 2d at 609. Moreover, any  
4 amendment requested under Federal Rule of Civil Procedure 15(a) must not be: (1) prejudicial to  
5 the opposing party; (2) the product of undue delay; (3) proposed in bad faith; or (4) futile. See  
6 Foman v. Davis, 371 U.S. 178, 182 (1962).

7 III. DISCOVERY PROCEDURES

8 Discovery matters that do not implicate the schedule of the case or that do not relate to  
9 sealing or redaction of documents related to dispositive motions are referred to the assigned  
10 United States Magistrate Judge, who will hear all discovery disputes subject to his or her  
11 procedures. (The assigned magistrate judge's initials follow the district judge's initials next to the  
12 case number.) All discovery documents must include the words "DISCOVERY MATTER" in  
13 the caption to ensure proper routing. Do not direct delivery of courtesy copies of these  
14 documents to the district judge. Counsel are directed to contact the magistrate judge's courtroom  
15 deputy clerk to schedule discovery matters for hearing.

16 All motions to compel discovery must be noticed on the assigned magistrate judge's  
17 calendar in accordance with the local rules of this court and the magistrate judge's own  
18 procedures. The written ruling of the assigned magistrate judge shall be final, subject to  
19 modification by the district court only where it has been shown that the magistrate judge's order  
20 is clearly erroneous or contrary to law. *See* 28 U.S.C. § 636(b)(1)(A). Pursuant to Local Rule  
21 303, any party may file and serve a "Request for Reconsideration by the District Court of  
22 Magistrate Judge's Ruling." *See* L.R. 303(c). The requesting party must file and serve any such  
23 request within fourteen (14) days of service of a written ruling. L.R. 303(b). The request must  
24 specify which portions of the ruling are clearly erroneous or contrary to law and the basis for that  
25 contention with supporting points and authorities. L.R. 303(c).

26 In addition, the assigned magistrate judge reviews proposed discovery phase protective  
27 orders sought by the parties pursuant to Local Rule 141.1. However, requests to seal or redact in  
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1 connection with dispositive motions or trial are decided by Judge Drozd and any such requests  
2 must comply with Judge Drozd's Standing Order and Local Rules 140 and 141.

3 **IV. DISCOVERY DEADLINES**

4 **A. Rule 26(a) Initial Disclosures**

5 The parties shall serve their initial disclosures pursuant to Federal Rule of Civil Procedure  
6 Rule 26(a)(1) no later than **November 22, 2023**, the date proposed by the parties.

7 Any parties served or joined after the issuance of this scheduling order shall "make the  
8 initial disclosures within 30 days after being served or joined," as provided by Rule 26(a)(1)(D).

9 **B. Fact Discovery**

10 All fact discovery shall be completed<sup>1</sup> no later than **July 1, 2024**.

11 **C. Expert Discovery**

12 Disclosures of expert witnesses, if any, must be made pursuant to Federal Rule of Civil  
13 Procedure 26(a)(2)(A), (B) and (C), and shall include all information required thereunder. Each  
14 expert witness must be fully prepared to be examined on all subjects and opinions included in the  
15 disclosures. Failure to comply with these requirements may result in the imposition of  
16 appropriate sanctions, including the preclusion of the expert's testimony, or of other evidence  
17 offered through the expert.

18 The parties shall disclose initial experts and produce reports in accordance with Federal  
19 Rule of Civil Procedure 26(a)(2) by no later than **July 8, 2024**. With regard to expert testimony  
20 intended solely for rebuttal, those experts shall be disclosed and reports produced in accordance  
21 with Federal Rule of Civil Procedure 26(a)(2) on or before **July 29, 2024**.

22 All expert discovery shall be completed no later than **August 12, 2024**.

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25 <sup>1</sup> As used herein, the word "completed" means that all discovery shall have been conducted so  
26 that all depositions have been taken and any disputes relevant to discovery shall have been  
27 resolved by appropriate order if necessary and, where discovery has been ordered, the order has  
28 been obeyed. The parties are advised that motions to compel must be filed in advance of the  
discovery completion deadlines so that the court may grant effective relief within the allotted  
discovery time. A party's failure to have a discovery dispute heard sufficiently in advance of the  
discovery cutoff may result in denial of the motion as untimely.

1 V. MOTIONS

2 All motions, except motions for continuances, temporary restraining orders, or other  
3 emergency applications, shall be filed on or before **October 14, 2024** and shall be noticed for  
4 hearing before Judge Drozd on a date not more than 60 days from the date the motion is filed and  
5 on a date that is consistent with Judge Drozd's Standing Order. Counsel are directed to refer to  
6 the local rules regarding the requirements for noticing and opposing such motions on the court's  
7 regularly scheduled law and motion calendar.

8 Prior to filing a motion for summary judgment or motion for partial summary judgment  
9 (summary adjudication), the parties are ordered to meet and confer, in person or by telephone, to  
10 discuss the issues to be raised in the motion. **In addition to complying with the requirements**  
11 **of Local Rule 260, the parties must prepare a Joint Statement of Undisputed Facts, which**  
12 **identifies all relevant facts subject to agreement by all parties.** The moving party is  
13 responsible for filing the joint statement concurrently with the motion. In the notice of motion,  
14 the moving party shall certify that the parties have met and conferred as ordered above or provide  
15 a statement of good cause for the failure to do so.

16 VI. SETTLEMENT CONFERENCE

17 District Judge Dale A. Drozd requires parties to participate in a court-supervised  
18 settlement conference with a settlement judge before the action may proceed to trial. A  
19 settlement conference has not been set at this time. At any time before the final pretrial  
20 conference, the parties may file a joint request that this action be referred to a settlement judge for  
21 the setting of a settlement conference. If the parties have not participated in a court-supervised  
22 settlement conference by the time of the final pretrial conference, the court will refer the action at  
23 that time to the assigned magistrate judge for the setting of a settlement conference. The parties  
24 shall contact the designated settlement conference judge's chambers to ascertain that judge's  
25 settlement conference procedures, including the procedure for submitting confidential settlement  
26 statements, which shall not be filed and will not otherwise be disclosed to the trial judge.

27 Unless otherwise permitted in advance by the court, the attorneys who will try the case  
28 shall appear at the settlement conference. Pertinent evidence to be offered at trial, documents or

1 otherwise, should be brought to the settlement conference for presentation to the settlement judge.  
2 Of course, neither the settlement conference statements nor communications during the settlement  
3 conference with the settlement judge can be used by either party in the trial of this case.

4 Absent permission from the court, in addition to counsel who will try the case being  
5 present, the individual parties shall also be present, and in the case of corporate parties,  
6 associations or other entities, and insurance carriers, a representative executive with unrestricted  
7 authority to discuss, consider, propose and agree, or disagree, to any settlement proposal or offer  
8 shall also be present. If for any reason the representative with unlimited authority cannot attend,  
9 such a person must be available by phone or video throughout the conference. In other words,  
10 having settlement authority “up to a certain amount” is not acceptable.

11 VII. FINAL PRETRIAL CONFERENCE

12 The final pretrial conference is set for **March 25, 2025 at 1:30 p.m.** before District Court  
13 Judge Dale A. Drozd by Zoom. Parties will receive a Zoom ID number and password for the  
14 final pretrial conference by email from Judge Drozd’s Courtroom Deputy Pete Buzo  
15 (PBuzo@caed.uscourts.gov). Any other interested parties or members of the public may access  
16 the conference telephonically by dialing 888-557-8511 and using access code 9683466, at the  
17 time of the conference. Because several matters may be set for the same afternoon, the parties  
18 will be notified in advance of the conference at what specific time the court anticipates calling  
19 their case so they can join the Zoom at that time.

20 The parties are directed to file a joint pretrial statement, carefully prepared and executed  
21 by all counsel, that complies with the requirements of this Local Rule 281 and Judge Drozd’s  
22 Standing Order. Counsel shall also email a copy of the joint pretrial statement in Word format to  
23 Judge Drozd’s chambers at dadorders@caed.uscourts.gov.

24 The parties’ attention is directed to Local Rules 281 and 282. This court will insist upon  
25 strict compliance with these rules. At the pretrial conference, the court will set deadlines to file  
26 trial documents, including motions *in limine*, trial briefs, and proposed jury *voir dire*, instructions,  
27 and verdict forms (where applicable).

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1       VIII. JURY TRIAL

2           A jury trial is set for **June 2, 2025 at 9:00 a.m.** in Courtroom 4 before District Court  
3 Judge Dale A. Drozd. Trial is anticipated to last 3-5 court days.

4       IX. REQUEST FOR BIFURCATION, APPOINTMENT OF SPECIAL MASTER, OR  
5           OTHER TECHNIQUES TO SHORTEN TRIAL

6           The parties have not made any such requests currently and do not anticipate any such  
7 requests.

8       X. RELATED MATTERS PENDING

9           There is no related litigation.

10      XI. OBJECTIONS AND MODIFICATIONS TO THE SCHEDULING ORDER

11           **This case schedule will become final without further order of the court unless**  
12 **objections are filed within fourteen (14) days of the entry of this order.** The schedule, once  
13 final, shall not be modified except by leave of court upon showing of good cause. The assigned  
14 magistrate judge is authorized to modify only the discovery dates to the extent any such  
15 modification does not impact the balance of the schedule of the case.

16           The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
17 Procedure, no stipulations extending scheduling requirements or modifying applicable rules are  
18 effective until and unless the court approves them. Agreement of the parties by stipulation alone  
19 does not constitute good cause. Any request or stipulation to modify this scheduling order must  
20 set forth:

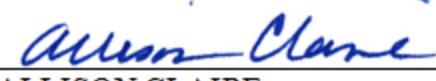
- 21           (1)     the existing due date or hearing date as well as the discovery cutoff date, the last  
22                   date for hearing motions, the final pretrial conference date, and the trial date;
- 23           (2)     whether there have been prior requests for extensions, and whether these were  
24                   granted or denied by the court; and
- 25           (3)     specific, concrete reasons supporting good cause for granting of the extension. For  
26                   example, if the reason for the requested extension is that it “will promote  
27                   settlement,” the requesting party or parties must indicate the status of ongoing

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1 negotiations, i.e., have written proposals been exchanged; is counsel in the process  
2 of reviewing a draft settlement agreement; has a mediator been selected.

3 IT IS SO ORDERED.

4 Dated: November 8, 2023

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6 ALLISON CLAIRE  
7 UNITED STATES MAGISTRATE JUDGE

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